



## MORGANTOWN PLANNING COMMISSION

January 10, 2013  
6:30 PM  
City Council Chambers

### **Planning Commissioners:**

Sam Loretta, 1<sup>st</sup> Ward  
Tim Stranko, 2<sup>nd</sup> Ward  
William Wyant, 3<sup>rd</sup> Ward  
Bill Petros, 4<sup>th</sup> Ward  
Michael Shuman, 5<sup>th</sup> Ward  
Peter DeMasters, 6<sup>th</sup> Ward  
Carol Pyles, 7<sup>th</sup> Ward  
Ken Martis, Admin.  
Jennifer Selin, City Councilor

### **STAFF REPORT**

**CASE NO:** TX12-03 / Administrative / ISOD, Interstate Sign Overlay District

### **REQUEST:**

Administratively requested text amendments to Article 1329.02 "Definition of Terms"; 1359 "ISOD, Interstate Sign Overlay District"; Table 1369.06.01 "Permitted Signs"; Table 1369.09.01 "Freestanding Sign Height Limits"; and, Article 1369.10 "Prohibited Signs and Devices" as they relate to pole or pylon signs and billboard signs as well as an administratively requested zoning map amendment to the Interstate Sign Overlay District boundaries.

### **BACKGROUND:**

Staff provided an informational presentation of the subject administratively requested text amendments during the December 13, 2012 Planning Commission hearing. As discussed during the presentation, it appears that the Morgantown community sought to significantly restrict the development of billboards or off-premise pole or pylon signs under the major zoning ordinance amendment enacted in January 2006. In doing so, an overlay district was created in proximity to federal interstate rights-of-ways within which these types of signs are permitted. Article 1359 establishes the ISOD, Interstate Sign Overlay District and the official zoning map illustrates the boundaries for same.

In reviewing the zoning ordinance text and zoning map, there is a conflict between how the overlay district's boundary is described and how it is illustrated. Specifically, Article 1359 describes the overlay district boundaries as to within 500 feet of a federal interstate right-of-way. However, the official zoning map illustrates the ISOD Overlay District boundary to, what appears to be, 500 feet from the I-68 centerline. The resultant overlay district as illustrated on the zoning map is contained entirely within the I-68 right-of-way. The West Virginia Division of Highways (WVDOH) does not permit signs to be erected within a right-of-way for which it controls and maintains.

Article 1329.01(D) "Rules of Construction, Intent, and Usage" provides that, "In case of conflict between regulations the more restrictive shall apply."

In this case, the official zoning map is more restrictive but results in an area where these types of sign may not be erected due to WVDOH restrictions. As such, the City of Morgantown inadvertently enacted restrictions that make the development of these types of signs impossible.

The City Attorney maintains that, in West Virginia, all land use types must be permitted somewhere within a community that has enacted land use and land development regulations. On this basis, the City of Morgantown must therefore identify an acceptable area for billboards and off-premise pole or pylon signs to be permitted.

### **Development Services**

Christopher Fletcher, AICP  
Director

### **Planning Division**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431



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### **ANALYSIS:**

Addendum B of this report presents Staff recommended revisions. The purposes of the subject administratively requested text and map amendments are to:

- To avoid unnecessary and costly litigation;
- To recognize and provide for “billboards” in the zoning ordinance; and,
- To recognize and provide for digital technologies and reasonable restrictions.

The following summarizes the revisions provided in Addendum B.

1. Official Zoning Map. Staff recommends that the ISOD, Interstate Sign Overlay District boundaries be removed from the Official Zoning Map so that the geography of the overlay district is simply described in Article 1359.

Because the only documentation currently held by the WVDOH that describes or illustrates the I-68 right-of-way are surveys from the early 1970s, removing the overlay district from the zoning map places the determination or burden of proof concerning the location of the federal interstate right-of-way and the proximity of a proposed billboard or off-premise sign on the developer seeking to erect the sign. Additionally, describing the boundary and not illustrating it provides flexibility for future annexations that may include areas adjoining a federal interstate without having to amend the zoning map accordingly.

2. Article 1329.02 “Definition of Terms”. Staff recommends that the term “Billboard Sign” be included in the definitions section and that the current geography description provided in the definition for “Pole Sign” be removed.
3. Article 1359 “ISOD, Interstate Sign Overlay District”. Staff recommends that Article 1359 be struck entirely and replaced as presented in Addendum B of this report. Recommended revisions provide necessary geographical context in the absence of the overlay district being illustrated on the zoning map as well as provide standards for electronic and/or digital billboards that are becoming more of an industry standard.
4. Table 1369.06.01 “Permitted Signs”. Staff recommends that “Billboard Sign” be added to the table that identifies where said signs are permitted.
5. Table 1369.09.01 “Freestanding Sign Height Limits”. Staff recommends that “Billboard” type signs be added to the table that identifies height restrictions as off-premise signs are currently provided.
6. Table 1369.10 “Prohibited Signs and Devices”. Staff recommends that “Billboard” type signs be added to the list of prohibited signs as off-premise signs are currently provided.

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### **STAFF RECOMMENDATION:**

The Planning Department advises the Planning Commission to forward a favorable recommendation to City Council to enact the Planning and Zoning Code amendments as presented in Addendum B hereto attached.